



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/262,870	03/04/1999	MICHAEL D. ELLIS	UV-48	1124

7590 01/04/2007
MICHAEL E SHANAHAN
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
----------	--------------

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/262,870

Applicant(s)

ELLIS, MICHAEL D.

Examiner

Hunter B. Lonsberry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 15, 17, 50-59, 62-66, 98-107, 110-114 and 146-157 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 15, 17, 50-59, 62-66, 98-107, 110-114 and 146-157 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/29/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 9/20/06 have been fully considered but they are not persuasive.

Applicant argues that LaJoie does not show or suggest allowing selecting of a VOD program listing or allowing ordering of a VOD program associated with a listing, that VOD listings are not inherently disclosed in LaJoie. (Pages 38-43)

The Examiner notes that only claim 148 requires an ordering step, the other claims merely require the selection and immediate display of the VOD program.

Regarding applicants argument, LaJoie teaches an EPG system, which displays a partial screen EPG (figures 4,7, 33-34). When a user presses an up/down key 102, a new channel is tuned to and a program information banner 114 is displayed indicating the current channel's channel number 116, the current channel's call sign 118, current time 120, the current programs name 123, running time 125 and elapsed time 127 (column 15, lines 10-35). LaJoie's channel selection function utilizes a series of channel look-up tables shown in Figure 5, in order to select a channel number. STB 6 identifies the service associated with a channel using the table, for example, using channel table 101, channel 5, is associated with a video service, channel 14 with an NVOD service, and channel 15 with a VOD service (column 16, lines 10-28). From service table 103,

Art Unit: 2623

STB 6 identifies the channels source and descriptive information for a channel service (such as VOD parameters 129), descriptive information which can be used in the EPG, browse banner (partial screen program guide), such as call sign, logo etc, is determined by referring to column 125 (column 16, lines 29-51). When a user presses up/down key 102 with a browse information banner 132 displayed, causes the banner to removed from display, the channel tuner to select and display the next channel following the previously displayed channel, and a program information banner to be displayed for the new channel (figure 6, column 18, lines 11-39, 46-54). Therefore, when a user changes channels from channel 14 (an NVOD service which shows a partial screen program guide listing in figures 33/34) LaJoie must display a partial screen program guide display with program listings for a VOD program on VOD channel 15, as LaJoie teaches that when a user changes to the next higher channel, program listing information is displayed.

Applicant argues that LaJoie does not show or suggest a partial screen program guide while displaying a TV program, and that an interactive barker is different from a TV program (pages 40-41).

The Examiner disagrees. LaJoie shows numerous displays of partial screen program guides, see figures 4, 16-31. Further, a barker is a TV program; it is merely a repetition of a video segment or collection of segments displayed on a television.

Applicant's failure to properly traverse the Official Notice(s) taken in the previous action is viewed as admission of prior art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-12, 14-15, 17, 50-52, 54-59, 62-65, 98-107, 110-114, and 146-157 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S. Patent 5,850,218 to LaJoie in view of U.S. Patent 4,506,387 to Walter.

Regarding claim 1, and 98, LaJoie discloses an EPG system implemented on viewer television equipment (STB 6 with S-Video output 47 for displaying images (column 13, lines 5-21)) having a main display screen comprising

Means for displaying a given television program (STB 6 with S-Video output 47 for displaying images (column 13, lines 5-21))

Means for displaying a partial screen guide display on the viewer television equipment at the same time that said given television program is displayed (output 47, displays a window 578 with video at the same time as the VOD application, figure 29, on the viewer television equipment, Figure 29, Box 566, Figure 25, 508, column 29, lines 5-58), said program guide display including at least one VOD listing (Figure 29,

Box 566, Figure 25, 508, column 29, lines 5-58, VOD services are provided to the user, column 1, lines 43-49, column 2, lines 1-7, column 7, line 4-column 8, line 10, column 16, lines 10-51, Figure 5, a user may browse these listings)

Means for allowing a viewer to select at least one of the video on demand program listings (Figure 29, Box 566, Figure 25, 508, column 29, lines 5-58, VOD services are provided to the user, column 1, lines 43-49, column 2, lines 1-7, column 7, line 4-column 8, line 10, column 16, lines 10-51, Figure 5, a user may browse these listings).

LaJoie inherently includes means for displaying VOD program listings as in Figure 5, LaJoie discloses a service table with a channel 15, with a VOD service type in column 103, and parameter table 129, and that the electronic program guide reads service, channel and descriptive information by referring to column 125 in table 103.

LaJoie does not disclose displaying a VOD program immediately when a user selects a VOD listing, but does disclose transmitting it immediately afterwards.

Walter discloses a VOD system which transmits a program faster than real time, a program may be transmitted in its entirety or may be partially transmitted thus allowing a user to view the program after the request and after the user presses the start button (column 7, lines 37-column 8, line 56), thus providing an enjoyable viewing experience by allowing a user to view a program immediately.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to allow a user to view a program after selection as taught by Walter thereby allowing a user to watch a program whenever they wanted.

Regarding claims 2 and 99, LaJoie shows in Figure 25, an EPG that is overlaid over a TV program.

Regarding claims 3 and 100, LaJoie shows in Figure 25, a screenshot 492, in which a TV program has been reduced to show an unobscured view of the EPG.

Regarding claims 4 and 101, LaJoie shows in Figure 24, that a user may use the up/down keys 128 on a remote to select VOD programming (column 29, lines 33-36).

Regarding claims 6 and 102, LaJoie discloses in Figure 4, that a subscriber may press an "I" button to display the EPG in the main display.

Regarding claims 7 and 103, LaJoie discloses in Figure 6, that a user may press an "I" button to turn off the EPG display.

Regarding claim 8 and 104, LaJoie Discloses in Figure 26, that a user may press the select button 136 on a remote control to get detailed information on a VOD program.

Regarding claims 9 and 105, LaJoie discloses in Figure 18, that a user may press the "Guide" key to receive more detailed information on a program.

Regarding claims 10 and 106, LaJoie discloses in Figure 4, that a user may press the "I" key to receive detailed information on a program, in Figure 25, LaJoie discloses that a user who presses the B key may purchase a VOD event, a user may navigate listings in order to display a screen with more detailed information regarding the event on the main display screen (column 31, lines 51-63, figure 29).

Regarding claims 11 and 107, LaJoie discloses in Figure 4, that a user may change channels by pressing a +/- key 102.

Regarding claim 12, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49), the programs can be recorded to a VCR via a timer which is set by a user (Figure 12).

Regarding claim 14, LaJoie discloses in Figure 25, that a user may place an order for a VOD program via the program guide.

Regarding claim 15, 113 and 114, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508, and that a favorites icon 166 may be used (Figure 8, column 19, lines 29-38).

LaJoie/Walters do not disclose indicating that a program is available on demand, but do disclose that programs may be delivered on demand.

The examiner takes official notice that the use of an icon to indicate that a program is a VOD program is notoriously well known in the art, for example a channel icon VOD1. Icons enable a user to easily identify various types of programming

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the icons of LaJoie/Walters to include an icon to indicate a VOD program thus enabling a user to readily identify VOD programming.

Regarding claim 17, LaJoie discloses that parents may block channels for viewing by children via entry of a control code (column 13, lines 36-43, column 17, lines 15-22) and that a PIN code may be required to order a program (Figure 28).

Regarding claim 19, LaJoie discloses in Figure 29, that a user may order a VOD event via a program guide, select a start time, and automatically starting the program at the selected start time (column 31, lines 33-67).

Regarding claim 20, LaJoie reminds a user of the start time for a previously ordered VOD program (Figure 30, column 31, lines 50-67).

Regarding claim 22, and 132, in Figures 30-32, LaJoie reminds the user of a start time for an ordered program and provides an option to watch the program at the selected start time.

Regarding claims 23, 24, 119, and 120, LaJoie discloses a system in Figures 30-32, which reminds a user of a start time and provides VOD event menu for selecting additional times to purchase programming.

Regarding claim 26, LaJoie discloses a system in Figures 30-32 which reminds a user of a start time and allows a user to cancel the event via a press of the c button (column 32, lines 23-44).

Regarding claims 50 and 146-148, LaJoie discloses an EPG system implemented on viewer television equipment (STB 6 with S-Video output 47 for displaying images (column 13, lines 5-21)) having a main display screen comprising

Means for displaying a given television program (STB 6 with S-Video output 47 for displaying images (column 13, lines 5-21))

Means for displaying a partial screen guide display on the viewer television equipment at the same time that said given television program is displayed (output 47, displays a window 578 with video at the same time as the VOD application, figure 29, on the viewer television equipment, Figure 29, Box 566, Figure 25, 508, column 29, lines 5-58), said program guide display including at least one VOD listing (Figure 29,

Art Unit: 2623

Box 566, Figure 25, 508, column 29, lines 5-58, VOD services are provided to the user, column 1, lines 43-49, column 2, lines 1-7, column 7, line 4-column 8, line 10, column 16, lines 10-51, Figure 5, a user may browse these listings)

Allowing the viewer to select at least on of the VOD listings (Figure 29, Box 566, Figure 25, 508, column 29, lines 5-58, VOD services are provided to the user, column 1, lines 43-49, column 2, lines 1-7, column 7, line 4-column 8, line 10, column 16, lines 10-51, Figure 5, a user may browse these listings).

LaJoie inherently includes means for displaying VOD program listings as in Figure 5, LaJoie discloses a service table with a channel 15, with a VOD service type in column 103, and parameter table 129, and that the electronic program guide reads service, channel and descriptive information by referring to column 125 in table 103.

LaJoie does not disclose displaying a VOD program immediately when a user selects a VOD listing, but does disclose transmitting it immediately afterwards.

Walter discloses a VOD system which transmits a program faster than real time, a program may be transmitted in its entirety or may be partially transmitted thus allowing a user to view the program after the request and after the user presses the start button (column 7, lines 37-column 8, line 56), thus providing an enjoyable viewing experience by allowing a user to view a program immediately.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to allow a user to view a program after selection as taught by Walter thereby allowing a user to watch a program whenever they wanted.

Regarding claim 51, LaJoie discloses in Figure 29, an EPG that displays both a TV program in a window and a listing of VOD programs in a box 566; LaJoie discloses in Figure 6, a TV program that is overlaid with a program guide display.

LaJoie and Walter fail to disclose the use of an overlaid program guide to navigate VOD programming

The examiner takes official notice that the use of overlaid program guides to navigate VOD programming is notoriously well known in the art. Program guide overlays enable a user to simultaneously browse programming options while keeping track of a currently watched programming.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the overlaid program guide LaJoie and Walter to utilize an overlaid program guide with VOD listings, thus enabling a user to simultaneously browse programming options while keeping track of a currently watched programming.

Regarding claim 52, LaJoie discloses in Figure 29, an EPG that displays both a TV program in a reduced sized window and a listing of VOD programs in a box 566.

Regarding claims 54 and 55, LaJoie discloses in Figure 4, that the EPG may be opened and closed by pressing the "I" key.

Regarding claim 56, LaJoie discloses that a user may navigate listings in order to display a screen with more detailed information regarding the event (column 31, lines 51-63).

Regarding claims 57 and 58, LaJoie discloses that a user may navigate listings in order to display a screen with more detailed information regarding the event on the main display screen (column 31, lines 51-63, figure 29), a user may purchase the event (figure 28).

Regarding claim 59, LaJoie discloses that pressing the +/- button on the keypad may change the channel (figure 4).

Regarding claim 62, LaJoie discloses that parents may block channels for viewing by children via entry of a control code (column 13, lines 36-43, column 17, lines 15-22) and that a PIN code may be required to order a program (Figure 28).

Regarding claim 63 and 64, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49), the programs can be recorded to a VCR via a timer which is set by a user (Figure 12).

Regarding claim 65, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508.

Regarding claim 110, LaJoie/Walter disclose a VOD ordering system with a PIN code.

LaJoie and Walter do not disclose the use of a parental control code.

The examiner takes official notice that entering a parental control code is notoriously well known in the art, for example the use of a code to unlock a blocked television channel. Parental control codes prohibit viewers from viewing age inappropriate content.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify LaJoie and Walter to include a parental control code for the advantage of prohibiting viewers from viewing age inappropriate content.

Regarding claims 111 and 112, Walter discloses storing a VOD movie in local storage and allowing a user to view it at any desired time (column 7, lines 37-column 8, line 56).

Regarding claims 149-157, LaJoie discloses in figure 28, a screen 544, in which a use may press a B button in order to buy a program, a confirmation screen 552, is displayed which requires further input (a second B button press) in order to confirm purchase of the program, after which the program is immediately displayed (column 30, lines 64-column 31, line 32).

3. Claims 5 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,850,218 to LaJoie in view of U.S. Patent 4,506,387 to Walter in further view of U.S. patent 6,571,390 to Dunn.

Regarding claims 5 and 53, LaJoie discloses in Figure 20, a theme option of navigating TV programming via a remote control (column 26, lines 48-60).

LaJoie/Walter do not disclose if VOD programming is grouped by theme.

Dunn discloses a VOD application, which allows a user to browse programming by category, lists (Figures 12-13, column 12, line 54-column 13, line 23), thus providing an easy way to navigate programming choices.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include PPV/VOD programming in the category listings as taught by Dunn for the advantage of making it easier for a subscriber to navigate programming choices.

4. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,850,218 to LaJoie in view of U.S. Patent 4,506,387 to Walter in further view of U.S. Patent 6330,586 to Yates.

Regarding claim 66, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508.

LaJoie does not disclose the use of an icon to indicate a VOD event, but does use a record icon 506 in figure 25 to indicate a program, which is to be recorded.

Yates discloses the use of a VOD Icon to identify a VOD application (column 26, lines 61-67), thus enabling a user to easily identify types of programming and aiding the viewing experience.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie/Walter to include an icon to identify VOD programming as taught by Yates in a browser for the advantage of allowing a subscriber to easily identify programs to watch and aiding the viewing experience.

Conclusion

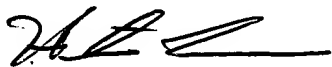
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HBL

Hunter Lonsberry

Patent Examiner

Art Unit 2623